

1 HONORABLE RICHARD A. JONES
2
3
4
5
6
7
8
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 ELMER J. BUCKARDT, et. al.,
13 Defendants.

CASE NO. C19-00052 RAJ

**ORDER STRIKING
DEFENDANTS' MOTION TO
DISMISS**

16 **I. INTRODUCTION**

17 This matter comes before the Court on Defendants' second Motion to Dismiss
18 (Dkt. # 24). For the reasons that follow, the Court **STRIKES** Defendants' Motion.

19 On January 11, 2019, the Government filed a Complaint against Elmer Buckardt,
20 Karen Buckardt, the D'Skell Agape Society, and Snohomish County, asking the Court to:
21 (1) reduce the outstanding tax assessments against Mr. Buckardt to judgments, (2) set
22 aside transfers of two of the Buckardt's properties to the D'Skell Agape Society, (3)
23 foreclose federal tax liens on the properties, and (4) sell the properties. Dkt. # 1.
24 Defendants Elmer Buckardt, Karen Buckardt, and the D'Skell Agape Society
25 (collectively the "Defendants") subsequently moved to dismiss this action for lack of
26 jurisdiction. Dkt. # 12. On October 31, 2019, this Court denied Defendants' motion to
27

1 dismiss for lack of jurisdiction, noting the Court has jurisdiction under 28 U.S.C. § 1331.
2 Dkt. # 23.

3 Two days later, Defendants filed a second one-page motion to dismiss in which
4 Defendants argue: “The supporting reason for motion to dismissed [sic] is on grounds no
5 proof of jurisdiction has been filed by government.” Dkt. # 24 (emphasis in original).
6 Defendants provide no other facts or legal arguments in support of their motion. As
7 explained in this Court’s previous order, the jurisdictional basis for this action is federal
8 question jurisdiction under 28 U.S.C. § 1331. Dkt. # 23. Defendants’ second motion
9 ignores the Court’s previous order and asserts the exact same arguments raised in
10 Defendants’ first motion to dismiss. *Compare* Dkt. # 12 and Dkt. # 24.

11 Defendants’ Motion is frivolous and the Court declines to consider it. *See* Fed. R.
12 Civ. P. 11 (allowing for sanctions where “a filing is frivolous, legally unreasonable, or
13 without factual foundation, or is brought for an improper purpose”). Defendants are also
14 cautioned against any future frivolous filings. Federal courts have the discretion to
15 impose sanctions on litigants engaging in frivolous litigation and the Court will not
16 hesitate to do so if Defendants continue to abuse the judicial process. *See Gomez v.*
17 *Vernon*, 255 F.3d 1118, 1133–34 (9th Cir.2001) (citing *Roadway Express, Inc. v. Piper*,
18 447 U.S. 752, 766 (1980)).

19 For the foregoing reasons, Defendants’ Motion to Dismiss is **STRICKEN**. Dkt. #
20 24.

21 Dated this 12th day of November, 2019.

22
23
24
25
26
27



22
23
24
25
26
27

The Honorable Richard A. Jones
United States District Judge